

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
DIVISION

United States District Court
Southern District of Texas
Filed

APR 23 2019

David J. Bradley, Clerk

CHARLES ANTHONY AVILA

Plaintiff's Name and ID Number

DISCHARGED FROM CONFINEMENT AUGUST 2nd 2017

Place of Confinement

CASE NO. _____

(Clerk will assign the number)

v.

L. REYNOLDS

Defendant's Name and Address

DON KOENING

Defendant's Name and Address

?? ROSA

Defendant's Name and Address

(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.

2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.

3. The Prison Litigation Reform Act of 1995 (PLRA) provides "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)

4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES ✓ NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: _____

2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____

3. Court: (If federal, name the district; if state, name the county.) _____

4. Cause number: _____

5. Name of judge to whom case was assigned: _____

6. Disposition: (Was the case dismissed, appealed, still pending?) _____

7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: DISCHARGED. ADDRESS 4416 CAVAZOS ST MISSION, TX 78573

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? ___ YES ☒ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: CHARLES ANTHONY AVILA, 4416 CAVAZOS ST MISSION TEXAS

78573

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: L. REYNOLDS PAROLE DIVISION FOR STATE OF TEXAS

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

INTENTIONALLY AND WANTILY MADE PLAINTIFF STAY 7th 7th 12th PAST HIS MAXIMUM RELEASED DATE JAN 16TH 2010.

Defendant #2: DON KOEN INC. EMPLOYED BY DETAINER / WARRANT DIVISION FOR TEXAS

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

REFUSED TO DROP DETAINMENT ON JANUARY 16TH 2010.

Defendant #3: ? ? ROSA, EMPLOYED ON THE BYRD UNIT (TOLJ)

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

DESTROYED PROPERTY INCLUDING MOTHERS ONLY PICTURE.

Defendant #4: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

THE PLAINTIFF HEREIN PRAY THAT THIS HONORABLE JUDGE GRANT THIS REQUEST TO FILE THIS COMPLAINT UNDER THE ALL WRITS ACT FOR THE PLAINTIFF STATES THAT THE DEFENDANTS HEREIN COMMITTED AN ACT OF KIDNAP OF THE PLAINTIFF FROM FLORENCE USP HIGH AND TRANS-PORTED HIM AGAINST HIS WILL AND WITHOUT LEGAL AUTHORITY TO DO SO TO TEXAS (TDCJ).

THE PLAINTIFF WAS SENTENCED ON OR ABOUT JANUARY 17TH 1980 TO 30 YEARS TO SERVE IN (TDCJ). IN 2003 THE PLAINTIFF RECEIVED PAROLE AND FOLLOWED ALL RULES UNTILL TO 2008. PLAINTIFF LEFT TEXAS WITHOUT PERMISSION AND WENT TO MISSOURI, WHERE HE RUBBER A BANK AND WAS SENTENCED 10 YEARS IN FEDERAL PRISON, PRISON NUMBER 23771-175.

THE TEXAS PAROLE COMMITTEE DID NOT CHARGE THE PLAINTIFF WITH ABSTOURNING BEFORE A JUDGE TO LEGALLY IMHANCE HIS 30 YEAR SENTENCE, AND THEREFORE LOST ANY LEGAL AUTHORITY OVER THE PLAINTIFF AFTER JANUARY 16TH 2010. SEE ATTACHED SHEET.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

NO ALIASES NAMES EVER

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

SID # 02777241 TDCJ # 382871 FEDERAL # 23771-175 MISSOURI # 37360

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES ☐ NO ☐

THE PLAINTIFF STATES THAT UNDER THE 5TH AMENDMENT OF THE UNITED STATES CONSTITUTION (DUE PROCESS OF LAW) THE DEFENDANTS L. REYNOLDS, DON KOENIG HAD NO LEGAL AUTHORITY TO HOLD A DETAINER PAST JANUARY 16TH 2010.

ON JULY 17TH 2017 THE PLAINTIFF WAS DISCHARGED FROM TDCJ IN ABSENCE AND FAILED TO NOTIFY THE FEDERAL PRISON THAT THE DETAINER WAS LOGGED THAT THEY NO LONGER NEEDED THE PLAINTIFF. SO ON JULY 20TH 2017 THE CONTRACTORS THAT TRANSPORTS PRISONERS FOR TDCJ, TOOK PLAINTIFF IN CUSTODY ON A WARRANT THAT WAS NO LONGER GOOD, AND TRANSPORTED PLAINTIFF TO TDCJ IN WHICH HE WAS PLACED BACK IN PRISON WITHOUT ANY LEGAL AUTHORITY.

WHILE PLAINTIFF WAS AT THE RECEIVING UNIT BYRD 4 BAGS OF PROPERTY WAS DISCARDED, IN WHICH HIS MOTHERS PICTURE WAS AMONG THE BAGS DISCARDED, HIS MOTHER DIED ON FEB 5TH 2012.

ON AUGUST 2ND 2017, PLAINTIFF WAS RELEASED FROM TDCJ AT HUNTSVILLE AND WAS TOLD HE WOULDN'T RECEIVE ANY BATE MONEY, FOR HE WAS NEVER SUPPOSED TO BE THERE.

THE PLAINTIFF WAS FORCED TO ENDURE BEING HOMELESS FOR 3 TO 4 MONTHS TO LIVE IN A PARK WITH ALCOHOLICS AND DRUG ADDICTS. THIS MADE THIS PLAINTIFFS RE-ENTRY TO SOCIETY A HIDEOUS INCUSION, AND THEREFORE SUFFERED CRUE AND UNUSUAL PUNISHMENT PLACED UPON BY TDCJ.

THE UNITED STATES CONSTITUTION PROHIBITS THIS KIND OF TREATMENT TO BE DONE TO A HUMAN. UNDER THE DECLARATION OF HUMAN RIGHTS ADOPTED IN DECEMBER 1948. AND THE 8TH AMENDMENT SHOWING DELIBERATE INDIFFERENCE.

RELIEF REQUESTED FOR PLAINTIFF.

I CHARLES ANTHONY AVILA REQUEST HE BE AWARDED 1500 DOLLARS A DAY FOR EVERY DAY AFTER JANUARY 16TH 2010. UNTIL AUGUST 2nd 2017 AND 20 MILLION DOLLARS FOR PHYSICAL AND MENTAL AGUISH SUFFERED BY THE HANDS OF THE DEFENDANTS. THE PLAINTIFF CANT GET RELIEF BY THE TDCJ RELEASING HIM FROM CUSTODY. SO THE ONLY SOLUTION WOULD BE MONEY AND ANY SANCTIONS THIS COURT SEES FIT TO IMPOSE UPON THE DEFENDANTS.

THE AMOUNT IN REQUEST TO BE AWARDED IS 23,734,000 DOLLARS AND TO MAKE SURE THAT THEY DONT ABUSE THEIR AUTHORITY AGAIN. AND FURTHER PRAYS THAT MRS ROSA SHOULD RESIGN FROM PERSISION IN TDCJ. FOR SHE SAID TO THE PLAINTIFF, "GOOD LUCK WITH YOUR LAWSUIT FOR IT WILL GO NO WHERE." THE PLAINTIFF PRAY THAT THIS COURT ENTERTAINS THIS ACTION TO RIGHTEN THE WRONG DONE.

THE PLAINTIFF HEREIN PRAYS THIS HONORABLE COURT GRANTS HIS REQUEST TO PROCEED WITH HIS COMPLAINT FOR THE WANTANT AND MELICIOUS TREATMENT DONE TO HIM BY THE DEFENDANTS FOR MENTIONED.

THE PLAINTIFF FURTHER WISH TO STRESS THAT UNDER THE DUE PROCESS OF LAW UNDER THE 5TH AMENDMENT OF THE UNITED STATES CONSTITUTION. ONCE A PERSONS MAXIMUM SENTENCE HAS EXPIRED HE IS TO BE DISCHARGED FROM THAT SENTENCE. THE 5TH DOESNT GIVE THE AUTHORITY TO HOLD THE PERSON HOSTAGE UNDER A DETAINER AND RELEASE HIM WHEN THEY SEE FIT. THERE ARE PROPER PROCEDURES TO FOLLOW, IN WHICH TDCJ FAILED TO FOLLOW. SUCH AS TAKING SAID PERSON BEFORE A COURT OF LAW TO ENHANCE SENTENCE. TDCJ FEELS THAT THEY ARE ABOVE THE LAW AND CANT BE TOUCHED OR SANCTIONED FOR VIOLATIONS OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

IT HAS BEEN A WELL KNOWN OF OLIVER WENDLE HOLMES. THAT IT IS A SAD DAY WHEN THOSE THAT ARE SWORN TO UPHOLD THE LAW. IN FACT BREAK SAID LAW. AND THEY THEMSELVES ARE NO BETTER THAN THE ONE'S VIOLATING THE LAW IN THE FIRST PLACE.

SO THE PLAINTIFF PRAYS THAT THIS HONORABLE COURT UPHOLDS THE LAWS OF THE UNITED STATES THAT IT HAS SWORN TO DO SO, AND TO APPLY THE ALL WRITS ACT TO THIS WRIT. THANK YOU.!

C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ☒ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date warning was issued: _____

Executed on: _____
DATE

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this _____ day of _____, 20_____.
(Day) (month) (year)

(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.